

Appl. No. 10/720,505
Atty. Docket: 2003B127
Amendment dated February 5, 2007
Reply to Final Office Action dated January 5, 2007

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REMARKS/ARGUMENTS

Claim Status – Request for Reconsideration

Reconsideration of this application is requested. The claims presented for reconsideration are claims 1 and 3-62. Claim 1 has been amended to include the features of now canceled claim 2 and those supported by the instant specification, *e.g.*, at paragraphs [00102] - [00104]. Claim 3 has been amended for clerical purposes.

In the Advisory Action, the Examiner stated that no support could be found for "and a combination thereof" and that amending claim 1 included broader subject matter. Applicants respectfully disagree. The amendments were not new matter because as stated in the Response of November 30 2006, "Claim 1 has been amended to include the features of now canceled claim 2 and those supported by the instant specification, *e.g.*, at paragraphs [00102] - [00104]." Paragraph [00103] specifically recites, "... the feedstock is selected from one or more of methanol, ethanol, dimethyl ether, diethyl ether or a combination thereof ..." Additionally, the amendments did not make the claim broader since the limitation was present in the dependent claim 2, which by definition is more narrow than claim 1. Therefore, the Examiner improperly refused admittance of the November 30, 2006 Amendment, as reflected in the Advisory Action, based on an erroneous assessment that the amendments to claim 1 constituted new matter. There was, in fact, no new matter presented. Applicants respectfully request that based upon this reasoning, the Examiner correct the record to reflect that the past amendments to claim 1 were not new matter.

Also in the Advisory Action, the Examiner stated that the amendments of the Response created new issues. Applicants respectfully disagree. As stated above, the amendment was based upon the subject matter of claim 2 and therefore cannot create a new issue. Although the combination of methanol and ethanol was not specifically in the original claim 2, the amendment should not require a new search. Any search that targeted "methanol or ethanol" as oxygenate feed would surely return references that contained disclosure of both. Applicants further assert that if the above reason is the sole basis for

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claiming the presence of new issues after final, then Applicants respectfully request that the Examiner affirmatively state such on the record, so that Applicants can consider filing a Petition to obtain review of that determination.

Claim Rejections – 35 USC § 103

Claims 1-62 stand rejected under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,482,998 to Kuechler *et al.* (hereinafter "Kuechler"), in view of U.S. Patent No. 5,744,680 to Mulvaney, III, *et al.* (hereinafter "Mulvaney"). This rejection is traversed and reconsideration is requested.

This invention is directed to a process for converting oxygenate to olefin product, which includes condensing a portion of the olefin product to provide a liquid stream rich in water and unreacted oxygenate. At least a part of the liquid stream is fed to a feed tray in a fractionation tower that separates the liquid feed into an oxygenate-rich overhead product and a water-rich liquid bottoms product. A liquid, oxygenate-rich stream that contains at least about 20 wt% oxygenate is fed to the fractionation tower above the feed tray. By this amendment, the oxygenate that is fed to the fractionation tower above the feed tray, is methanol and/or ethanol.

Kuechler discloses a process for catalytically converting a feedstock comprising an oxygenate to olefins utilizing a heat exchange device to transfer heat from at least a portion of an effluent of an oxygenate conversion reactor to the feedstock to cause at least a portion of the feedstock to vaporize. The portion of the effluent of the oxygenate conversion reactor that is sent to the heat exchange device and causes the feedstock to vaporize is a water-rich stream taken as an overhead stream 26 from a fractionator 24.

In the Advisory Action, the Examiner stated that "...Kuechler shows an average methanol mol% of 0.195 which is greater than 20 wt%." Applicants respectfully disagree and do not understand how 0.195 mol% can be greater than 20 wt%. The stated "0.195" is not a fraction, as the Examiner has indicated, and was also calculated improperly. Applicants are unsure how the Examiner calculated 0.195 mol% as the methanol content

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for stream 23, but can only assume that it was obtained simply by averaging the mol% values of streams 21 and 22. The amounts listed in Table 2 are relative amounts, and to simply take the *average* methanol mol % is improper and contrary to what is taught in Kuechler. Stream 21 is present at 92%, and stream 22 at 8%. Therefore, making the total of stream 23 to equal 0.1824 mol %, which is 2 orders of magnitude lower than the claimed "20 wt%." Therefore Kuechler fails to teach methanol in an amount anywhere near the claimed amount of 20 wt%.

Mulvaney was cited for disclosing the use of a recovery train to recover at least some of the olefin in the olefins product. As previously stated, Although Mulvaney does generally disclose the use of a recovery type train, Mulvaney fails to disclose the use of any liquid injection stream above the feed inlet of a fractionator. Therefore, even the combination of Mulvaney with Kuechler fails to suggest any use of a 20 wt% oxygenate stream above the feed tray of a fractionator. Accordingly, the combination of Mulvaney and Kuechler fails to suggest Applicants' claimed invention.

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CONCLUSION

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, this application is in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

It is also respectfully requested that the Examiner notify Applicants' undersigned attorney as to the disposition of the remarks presented herein in accordance with M.P.E.P. § 714.13. Before the issuance of any office action, particularly a Final Office Action, Applicants hereby exercises their right under M.P.E.P. § 713 to an in-person interview with the Examiner. Examiner is respectfully requested to call the undersigned attorney to schedule the interview, in the event that all of the claims are not allowed.

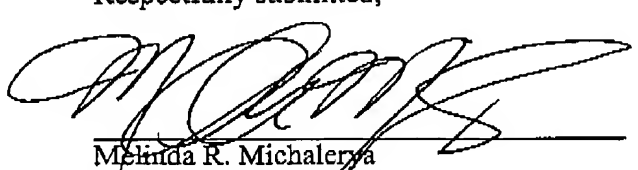
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2003B127).

Respectfully submitted,

Date

2/5/07


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